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S. 1274

To strengthen Federal leadership, provide grants, enhance outreach and guidance, and provide other support to State and local officials to achieve communications interoperability, to foster improved regional collaboration and coordination, to promote more efficient utilization of funding devoted to public safety communications, to promote research and development for first responder communications, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 21, 2005

Mr. LIEBERMAN (for himself, Ms. COLLINS, Mr. LEVIN, and Mr. AKAKA) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To strengthen Federal leadership, provide grants, enhance outreach and guidance, and provide other support to State and local officials to achieve communications interoperability, to foster improved regional collaboration and coordination, to promote more efficient utilization of funding devoted to public safety communications, to promote research and development for first responder communications, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Improve Interoperable
3 Communications for First Responders Act of 2005”.

4 **SEC. 2. FINDINGS.**

5 Congress finds the following:

6 (1) A major barrier to sharing information
7 among police, firefighters, and others who may be
8 called on to respond to terrorist attacks and other
9 large-scale emergencies is the lack of interoperable
10 communications systems, which can enable public
11 safety agencies to talk to one another and share im-
12 portant, sometimes critical, information in an emer-
13 gency.

14 (2) Communications interoperability has been
15 identified by the Department of Homeland Security
16 as 1 of the most essential capabilities necessary for
17 first responders to achieve the national preparedness
18 goal the Department of Homeland Security has es-
19 tablished for the Nation.

20 (3) The lack of interoperability costs lives dur-
21 ing terrorist attacks or natural disasters, but also
22 during everyday emergency operations.

23 (4) Achieving interoperability is difficult be-
24 cause some 50,000 local agencies typically make
25 independent decisions about communications sys-
26 tems. This lack of coordination also dramatically in-

1 creases the cost of public safety communications to
2 Federal, State, local, and tribal governments.

3 (5) Achieving the level of communications inter-
4 operability that is needed will require an unprece-
5 dented level of coordination and cooperation among
6 Federal, State, local, and tribal public safety agen-
7 cies. Establishing multidisciplinary, cross-jurisdic-
8 tional governance structures to achieve the necessary
9 level of collaboration is essential to accomplishing
10 this goal.

11 (6) The Intelligence Reform and Terrorism Pre-
12 vention Act of 2004 requires the Secretary of Home-
13 land Security, in consultation with other Federal of-
14 ficials, to establish a program to ensure public safety
15 interoperable communications at all levels of govern-
16 ment.

17 (7) However, much more remains to be done.
18 For example, in January 2005, the National Gov-
19 ernors Association reported that while achieving
20 interoperability ranked as the top priority for States,
21 obtaining the equipment and technology to fulfill
22 this goal remains a challenge. The large majority of
23 States report that they have not yet achieved inter-
24 operability in their States.

1 (8) Over 70 percent of public safety commu-
2 nications equipment is still analog, rather than dig-
3 ital. In fact, much of the communications equipment
4 used by emergency responders is outdated and in-
5 compatible, which inhibits communication between
6 State and local governments and between neigh-
7 boring local jurisdictions. Additional grant funding
8 would facilitate the acquisition of new technology to
9 enable interoperability.

10 (9) Stronger and more effective national, state-
11 wide, and regional leadership are required to im-
12 prove interoperability. The Department of Homeland
13 Security must provide national leadership by con-
14 ducting nationwide outreach to each State, fostering
15 the development of regional leadership, and pro-
16 viding substantial technical assistance to State,
17 local, and tribal public safety officials, while more ef-
18 fectively utilizing grant programs that fund inter-
19 operable equipment and systems.

20 (10) The Department of Homeland Security
21 must implement pilot programs and fund and con-
22 duct research to develop and promote adoption of
23 next-generation solutions for public safety commu-
24 nications. The Department of Homeland Security
25 must also further develop its own internal expertise

1 to enable it to better lead national interoperability
2 efforts and to provide technically sound advice to
3 State and local officials.

4 (11) Achieving interoperability requires the sus-
5 tained commitment of substantial resources. A non-
6 partisan task force of the Council on Foreign Rela-
7 tions recommended spending at least
8 \$6,800,000,000 over 5 years towards achieving
9 interoperability. The Department of Homeland Secu-
10 rity has estimated the cost of modernizing first-re-
11 sponder equipment for the 2,500,000 public safety
12 first responders across the country at
13 \$40,000,000,000.

14 (12) Communications interoperability can be
15 accomplished at a much lower cost if strong national
16 leadership drives cooperation and adoption of smart,
17 new technology solutions.

18 **SEC. 3. OFFICE FOR INTEROPERABILITY AND COMPAT-**
19 **IBILITY.**

20 (a) IN GENERAL.—Section 7303(a)(2) of the Intel-
21 ligence Reform and Terrorism Prevention Act of 2004 (6
22 U.S.C. 194(a)(2)) is amended to read as follows:

23 “(2) OFFICE FOR INTEROPERABILITY AND COM-
24 PATIBILITY.—

1 “(A) ESTABLISHMENT OF OFFICE.—There
2 is established an Office for Interoperability and
3 Compatibility within the Directorate of Science
4 and Technology of the Department of Home-
5 land Security to carry out this subsection.

6 “(B) DIRECTOR.—There shall be a Direc-
7 tor of the Office for Interoperability and Com-
8 patibility, who shall be appointed by the Sec-
9 retary of Homeland Security.

10 “(C) RESPONSIBILITIES.—The Director of
11 the Office for Interoperability and Compatibility
12 shall—

13 “(i) assist the Secretary of Homeland
14 Security in developing and implementing
15 the program described in paragraph (1);

16 “(ii) carry out the Department of
17 Homeland Security’s responsibilities and
18 authorities relating to the SAFECOM Pro-
19 gram;

20 “(iii) carry out section 510 of the
21 Homeland Security Act of 2002; and

22 “(iv) conduct extensive, nationwide
23 outreach and foster the development of
24 interoperable communications systems by
25 State, local, and tribal governments and

1 public safety agencies, and by regional con-
2 sortia thereof, by—

3 “(I) developing, updating, and
4 implementing a national strategy to
5 achieve communications interoper-
6 ability, with goals and timetables;

7 “(II) developing a national archi-
8 tecture, which defines the components
9 of an interoperable system and how
10 they fit together;

11 “(III) establishing and maintain-
12 ing a task force that represents the
13 broad customer base of State, local,
14 and tribal public safety agencies, as
15 well as Federal agencies, involved in
16 public safety disciplines such as law
17 enforcement, firefighting, public
18 health, and disaster recovery, in order
19 to receive input and coordinate efforts
20 to achieve communications interoper-
21 ability;

22 “(IV) working with the Office of
23 Domestic Preparedness Interoperable
24 Communication Communications
25 Technical Assistance Program to—

1 “(aa) provide technical as-
2 sistance to State, local, and tribal
3 officials; and

4 “(bb) facilitate the creation
5 of regional task forces in each
6 State, with appropriate govern-
7 ance structures and representa-
8 tion from State, local, and tribal
9 governments and public safety
10 agencies and from the Federal
11 Government, to effectively ad-
12 dress interoperability and other
13 information-sharing needs;

14 “(V) promoting a greater under-
15 standing of the importance of inter-
16 operability and the benefits of sharing
17 resources among all levels of State,
18 local, tribal, and Federal government;

19 “(VI) promoting development of
20 standard operating procedures for in-
21 cident response and facilitating the
22 sharing of information on best prac-
23 tices (including from governments
24 abroad) for achieving interoperability;

1 “(VII) making recommendations
2 to Congress about any changes in
3 Federal law necessary to remove bar-
4 riers to achieving communications
5 interoperability;

6 “(VIII) funding and conducting
7 pilot programs, as necessary, in order
8 to—

9 “(aa) evaluate and validate
10 new technology concepts in real-
11 world environments to achieve
12 public safety communications
13 interoperability;

14 “(bb) encourage more effi-
15 cient use of existing resources,
16 including equipment and spec-
17 trum; and

18 “(cc) test and deploy public
19 safety communications systems
20 that are less prone to failure,
21 support new non-voice services,
22 consume less spectrum, and cost
23 less; and

1 “(IX) performing other functions
2 necessary to achieve communications
3 interoperability.

4 “(D) SUFFICIENCY OF RESOURCES.—The
5 Secretary of Homeland Security shall provide
6 the Office for Interoperability and Compatibility
7 with the resources and staff necessary to carry
8 out the purposes of this section. The Secretary
9 shall further ensure that there is sufficient staff
10 within the Office of Interoperability and Com-
11 patibility, the Office for Domestic Prepared-
12 ness, and other offices of the Department of
13 Homeland Security as necessary, to provide
14 dedicated support to public safety organizations
15 consistent with the responsibilities set forth in
16 subparagraph (C)(iv).”.

17 (b) DEFINITION.—Section 7303(g)(1) of the Intel-
18 ligence Reform and Terrorism Prevention Act of 2004 (6
19 U.S.C. 194(g)(1)) is amended to read as follows:

20 “(1) INTEROPERABLE COMMUNICATIONS AND
21 COMMUNICATIONS INTEROPERABILITY.—The terms
22 ‘interoperable communications’ and ‘communications
23 interoperability’ mean the ability of emergency re-
24 sponse providers and relevant Federal, State, and
25 local government agencies to communicate with each

1 other as necessary, utilizing information technology
2 systems and radio communications systems, and to
3 exchange voice, data, or video with one another on
4 demand, in real time, as necessary.”.

5 (c) Title III of the Homeland Security Act of 2002
6 (6 U.S.C. 181 et seq.) is amended by adding at the end
7 the following:

8 **“SEC. 314. INTEROPERABILITY ASSESSMENT AND REPORT.**

9 “(a) BASELINE ASSESSMENT.—The Secretary, acting
10 through the Director of the Office for Interoperability and
11 Compatibility, shall conduct a nationwide assessment to
12 determine the degree to which communications interoper-
13 ability has been achieved to date and to ascertain the
14 needs that remain for interoperability to be achieved.

15 “(b) ANNUAL REPORTS.—Not later than 1 year after
16 the date of enactment of this section, and annually there-
17 after, the Secretary, acting through the Director of the
18 Office for Interoperability and Compatibility, shall submit
19 to the Committee on Homeland Security and Govern-
20 mental Affairs of the Senate and the Committee on Home-
21 land Security of the House of Representatives a report on
22 the Department’s progress in implementing and achieving
23 the goals of the Improve Interoperable Communications
24 for First Responders Act of 2005. The first report sub-
25 mitted under this subsection shall include a description of

1 the findings of the assessment conducted under subsection
2 (a).”.

3 **SEC. 4. RESEARCH AND DEVELOPMENT.**

4 (a) IN GENERAL.—Title III of the Homeland Secu-
5 rity Act of 2002 (6 U.S.C. 181 et seq.), as amended by
6 section 3, is amended by adding at the end the following:

7 **“SEC. 315. INTEROPERABILITY RESEARCH AND DEVELOP-**
8 **MENT.**

9 “(a) IN GENERAL.—The Secretary shall establish a
10 comprehensive research and development program to pro-
11 mote communications interoperability among first re-
12 sponders, including by—

13 “(1) promoting research on a competitive basis
14 through the Directorate of Science and Technology
15 Homeland Security Advanced Research Projects
16 Agency; and

17 “(2) considering establishment of a Center of
18 Excellence under the Department of Homeland Se-
19 curity Centers of Excellence Program, using a com-
20 petitive process, focused on enhancing information
21 and communications systems for first responders.

22 “(b) PURPOSES.—The purposes of the program es-
23 tablished under subsection (a) include—

1 “(1) understanding the strengths and weak-
2 nesses of the diverse public safety communications
3 systems currently in use;

4 “(2) examining how current and emerging tech-
5 nology can make public safety organizations more ef-
6 fective, and how Federal, State, and local agencies
7 can utilize this technology in a coherent and cost-ef-
8 fective manner;

9 “(3) exploring Federal, State, and local policies
10 that will move systematically towards long-term solu-
11 tions;

12 “(4) evaluating and validating new technology
13 concepts, and promoting the deployment of advanced
14 public safety information technologies for interoper-
15 ability; and

16 “(5) advancing the creation of a national strat-
17 egy to promote interoperability and efficient use of
18 spectrum in communications systems, improve infor-
19 mation sharing across organizations, and use ad-
20 vanced information technology to increase the effec-
21 tiveness of first responders in valuable new ways.”.

22 (b) AUTHORIZATION OF APPROPRIATIONS.—In addi-
23 tion to the funds authorized to be appropriated by section
24 7303(a)(3) of the Intelligence Reform and Terrorism Pre-
25 vention Act of 2004 (6 U.S.C. 194(a)(3)), there are au-

1 thorized to be appropriated for the operations of the Office
 2 for Interoperability and Compatibility, to provide technical
 3 assistance through the office for Domestic Preparedness,
 4 to fund and conduct research under section 315 of the
 5 Homeland Security Act of 2002, and for other appropriate
 6 entities within the Department of Homeland Security to
 7 support the activities described in section 7303 of the In-
 8 telligence Reform and Terrorism Prevention Act of 2004
 9 (6 U.S.C. 194) and sections 314 and 315 of the Homeland
 10 Security Act of 2002, as added by this Act—

- 11 (1) \$127,232,000 for fiscal year 2006;
- 12 (2) \$126,549,000 for fiscal year 2007;
- 13 (3) \$125,845,000 for fiscal year 2008;
- 14 (4) \$125,121,000 for fiscal year 2009; and
- 15 (5) such sums as are necessary for each fiscal
 16 year thereafter.

17 **SEC. 5. DEDICATED FUNDING TO ACHIEVE INTEROPER-**
 18 **ABILITY.**

19 The Homeland Security Act of 2002 (6 U.S.C. 101
 20 et seq.) is amended by adding at the end the following:

1 **“TITLE XVIII—DEDICATED FUND-**
2 **ING TO ACHIEVE INTEROPER-**
3 **ABILITY.**

4 **“SEC. 1801. INTEROPERABILITY GRANTS.**

5 “(a) IN GENERAL.—The Secretary, through the Of-
6 fice, shall make grants to States and eligible regions for
7 initiatives necessary to achieve short-term or long-term so-
8 lutions to statewide, regional, national and, where appro-
9 priate, international interoperability.

10 “(b) USE OF GRANT FUNDS.—Grants awarded under
11 subsection (a) may be used for initiatives to achieve short-
12 term or long-term solutions to interoperability within the
13 State or region and to assist with any aspect of the com-
14 munication life cycle, including—

15 “(1) statewide or regional communications
16 planning;

17 “(2) system design and engineering;

18 “(3) procurement and installation of equipment;

19 “(4) training and exercises; and

20 “(5) other activities determined by the Sec-
21 retary to be integral to the achievement of commu-
22 nications interoperability.

23 “(c) COORDINATION.—The Secretary shall ensure
24 that the Office coordinates its activities with Office of
25 Interoperability and Compatibility, the Directorate of

1 Science and Technology, and other Federal entities so that
2 grants awarded under this section, and other grant pro-
3 grams related to homeland security, fulfill the purposes
4 of this Act and facilitate the achievement of communica-
5 tions interoperability consistent with the national strategy.

6 “(d) APPLICATION.—

7 “(1) IN GENERAL.—A State or eligible region
8 desiring a grant under this section shall submit an
9 application at such time, in such manner, and ac-
10 companied by such information as the Secretary may
11 reasonably require.

12 “(2) MINIMUM CONTENTS.—At a minimum,
13 each application submitted under paragraph (1)
14 shall—

15 “(A) identify the critical aspects of the
16 communications life cycle, including planning,
17 system design and engineering, procurement
18 and installation, and training for which funding
19 is requested;

20 “(B) describe how—

21 “(i) the proposed use of funds would
22 be consistent with and address the goals in
23 any applicable State homeland security
24 plan, and, unless the Secretary determines

1 otherwise, are consistent with the national
2 strategy and architecture; and

3 “(ii) the applicant intends to spend
4 funds under the grant, to administer such
5 funds, and to allocate such funds among
6 any participating local governments; and

7 “(C) be consistent with the Interoperable
8 Communications Plan required by section
9 7303(f) of the Intelligence Reform and Ter-
10 rorism Prevention Act of 2004 (6 U.S.C.
11 194(f)).

12 “(e) STATE REVIEW AND SUBMISSION.—

13 “(1) IN GENERAL.—To ensure consistency with
14 State homeland security plans, an eligible region ap-
15 plying for a grant under this section shall submit its
16 application to each State within which any part of
17 the eligible region is located for review before sub-
18 mission of such application to the Secretary.

19 “(2) DEADLINE.—Not later than 30 days after
20 receiving an application from an eligible region
21 under paragraph (1), each such State shall transmit
22 the application to the Secretary.

23 “(3) STATE DISAGREEMENT.—If the Governor
24 of any such State determines that a regional appli-
25 cation is inconsistent with the State homeland secu-

1 rity plan of that State, or otherwise does not sup-
 2 port the application, the Governor shall—

3 “(A) notify the Secretary in writing of that
 4 fact; and

5 “(B) provide an explanation of the reasons
 6 for not supporting the application at the time
 7 of transmission of the application.

8 “(f) AWARD OF GRANTS.—

9 “(1) CONSIDERATIONS.—In approving applica-
 10 tions and awarding grants under this section, the
 11 Secretary shall consider—

12 “(A) the nature of the threat to the State
 13 or eligible region;

14 “(B) the location, risk, or vulnerability of
 15 critical infrastructure and key national assets,
 16 including the consequences from an attack on
 17 critical infrastructure in nearby jurisdictions;

18 “(C) the size of the population, as well as
 19 the population density of the area, that will be
 20 served by the interoperable communications sys-
 21 tems, except that the Secretary shall not estab-
 22 lish a minimum population requirement that
 23 would disqualify from consideration an area
 24 that otherwise faces significant threats,
 25 vulnerabilities, or consequences;

1 “(D) the extent to which grants will be uti-
2 lized to implement interoperability solutions—

3 “(i) consistent with the national strat-
4 egy and compatible with the national archi-
5 tecture; and

6 “(ii) more efficient and cost effective
7 than current approaches;

8 “(E) the number of jurisdictions within re-
9 gions participating in the development of inter-
10 operable communications systems, including the
11 extent to which the application includes all in-
12 corporated municipalities, counties, parishes,
13 and tribal governments within the State or eli-
14 gible region, and their coordination with Fed-
15 eral and State agencies;

16 “(F) the extent to which a grant would ex-
17 pedite the achievement of interoperability in the
18 State or eligible region with Federal, State, and
19 local agencies;

20 “(G) the extent to which a State or eligible
21 region, given its financial capability, dem-
22 onstrates its commitment to expeditiously
23 achieving communications interoperability by
24 supplementing Federal funds with non-Federal
25 funds;

1 “(H) whether the State or eligible region is
2 on or near an international border;

3 “(I) the extent to which geographic bar-
4 riers pose unusual obstacles to achieving com-
5 munications interoperability; and

6 “(J) the threats, vulnerabilities, and con-
7 sequences faced by the State or eligible region
8 related to at-risk site or activities in nearby ju-
9 risdictions, including the need to respond to ter-
10 rorist attacks arising in those jurisdictions.

11 “(2) REVIEW PANEL.—

12 “(A) IN GENERAL.—The Secretary shall
13 establish a review panel under section 871(a) to
14 assist in reviewing grant applications under this
15 section.

16 “(B) RECOMMENDATIONS.—The review
17 panel established under subparagraph (A) shall
18 make recommendations to the Secretary regard-
19 ing applications for grants under this section.

20 “(C) MEMBERSHIP.—The review panel es-
21 tablished under subparagraph (A) shall include
22 individuals with technical expertise in commu-
23 nications interoperability as well as emergency
24 response providers and other relevant State and
25 local officials.

1 “(3) AVAILABILITY OF FUNDS.—Any grant
2 funds awarded that may be used to support inter-
3 operability shall, as the Secretary may determine, re-
4 main available for up to 3 years, consistent with sec-
5 tion 7303(e) of the Intelligence Reform and Ter-
6 rorism Prevention Act of 2004 (6 U.S.C. 194(e)).

7 “(4) ALLOCATION.—

8 “(A) IN GENERAL.—In awarding grants
9 under this subsection, the Secretary shall en-
10 sure that each State receives, for each fiscal
11 year, the greater of—

12 “(i) 0.55 percent of the amounts ap-
13 propriated for grants under this section; or

14 “(ii) the eligible State’s sliding scale
15 baseline allocation of 28.62 percent of the
16 amounts appropriated for grants under
17 this section.

18 “(B) OTHER ENTITIES.—Notwithstanding
19 subparagraph (A), the Secretary shall ensure
20 that for each fiscal year—

21 “(i) the District of Columbia receives
22 0.55 percent of the amounts appropriated
23 for grants under this section;

1 “(ii) the Commonwealth of Puerto
 2 Rico receives 0.35 percent of the amounts
 3 appropriated for grants under this section;

4 “(iii) American Samoa, the Common-
 5 wealth of the Northern Mariana islands,
 6 Guam, and the Virgin Islands each receive
 7 0.055 percent of the amounts appropriated
 8 for grants under this section; and

9 “(C) POSSESSIONS.—Except as provided in
 10 subparagraph (B), no possession of the United
 11 States shall receive a baseline distribution
 12 under subparagraph (A).

13 “(g) DEFINITIONS.—As used in this section, the fol-
 14 lowing definitions apply:

15 “(1) ELIGIBLE REGION.—The term ‘eligible re-
 16 gion’ means—

17 “(A) 2 or more contiguous incorporated
 18 municipalities, counties, parishes, Indian tribes
 19 or other general purpose jurisdictions that—

20 “(i) have joined together to enhance
 21 communications interoperability between
 22 first responders in those jurisdictions and
 23 with State and Federal officials; and

1 “(ii) includes the largest city in any
2 metropolitan statistical area, as defined by
3 the Office of Management and Budget; or
4 “(B) any other area the Secretary deter-
5 mines to be consistent with the definition of a
6 region in the national preparedness guidance
7 issued under Homeland Security Presidential
8 Directive 8.

9 “(2) INTEROPERABLE COMMUNICATIONS AND
10 COMMUNICATIONS INTEROPERABILITY.—The terms
11 ‘interoperable communications’ and ‘communications
12 interoperability’ mean the ability of emergency re-
13 sponse providers and relevant Federal, State, and
14 local government agencies to communicate with each
15 other as necessary, utilizing information technology
16 systems and radio communications systems, and to
17 exchange voice, data, or video with one another on
18 demand, in real time, as necessary.

19 “(3) OFFICE.—The term ‘office’ refers to the
20 Office of Domestic Preparedness of the Office of
21 State and Local Government Preparedness and Co-
22 ordination within the Department of Homeland Se-
23 curity.

1 “(4) SLIDING SCALE BASELINE ALLOCATION.—

2 The term ‘sliding scale baseline allocation’ means

3 0.0001 multiplied by the sum of—

4 “(A) the value of a State’s population rel-

5 ative to that of the most populous of the 50

6 States of the United States, where the popu-

7 lation of such States has been normalized to a

8 maximum value of 100; and

9 “(B) $\frac{1}{4}$ of the value of a State’s popu-

10 lation density relative to that of the most dense-

11 ly populated of the 50 States of the United

12 States, where the population density of such

13 States has been normalized to a maximum

14 value of 100

15 “(h) AUTHORIZATION OF APPROPRIATIONS.—There

16 are authorized to be appropriated to carry out the pur-

17 poses of this section—

18 “(1) \$400,000,000 for fiscal year 2006;

19 “(2) \$500,000,000 for fiscal year 2007;

20 “(3) \$600,000,000 for fiscal year 2008;

21 “(4) \$800,000,000 for fiscal year 2009;

22 “(5) \$1,000,000,000 for fiscal year 2010; and

23 “(6) such sums as are necessary each fiscal

24 year thereafter.”.

1 **SEC. 6. TECHNICAL AND CONFORMING AMENDMENTS.**

2 The table of contents in section 1(b) of the Homeland
3 Security Act of 2002 (6 U.S.C. 101) is amended by—

4 (1) inserting after the item relating to section
5 313 the following:

“Sec. 314. Interoperability assessment and report.

“Sec. 315. Interoperability research and development.”;

6 (2) adding at the end the following:

“TITLE XVIII—DEDICATED FUNDING TO ACHIEVE
INTEROPERABILITY.

“Sec. 1801. Interoperability grants.”.

